

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA)	CRIMINAL NO. 3:05-181 (CMC)
)	
v.)	OPINION AND ORDER
)	
IAN FITZGERALD MCKELLAR)	
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This matter is before the court in response to Defendant McKellar's letter filed August 1, 2005, in which he requests that the court allow him to serve the remainder of his sentence on home confinement.¹ Defendant pled guilty on February 28, 2005, to one count of the Indictment charging violation of 21 U.S.C. § 843(b), and was sentenced on June 9, 2005, by this court to a term of twenty-four (24) months imprisonment. The court has construed this request as a motion for reduction of sentence.

There is no basis under Federal Rule of Criminal Procedure Rule 35 to reconsider Defendant's sentence. Under Rule 35(c), a court, acting within seven days after the imposition of a sentence, may correct a sentence that was imposed as a result of arithmetical, technical, or other clear error. More than seven days have passed since the imposition of Defendant's sentence. There is also no other relevant provision which permits a court to change a sentence after sentencing, except Rule 35(b), which is inapplicable here because it must be made on motion by the Government. *See* 18 U.S.C. § 3582(c).

In addition, even though the court may modify the conditions of a probationary period at any point during the probationary period, *see* 18 U.S.C. § 3563(c), this court can only reduce or terminate the probationary period in a felony matter "after the expiration of one year of probation . . . if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice."

¹The Clerk docketed this letter in Cr. 3:04-867 which was dismissed when Defendant entered a plea and was sentenced in Cr. No. 3:05-181. It should be re-docketed in Cr. No. 3:05-181.

18 U.S.C. §3564(c). Defendant's motion is hereby denied.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE

UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
August 4, 2005

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